

Monsanto

LAW DEPARTMENT

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Monsanto Company
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December 29, 1995

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lance R. Richman, P.G.
Emergency and Remedial
Response Division
U.S. Environmental Protection Agency
26 Federal Plaza, Room 13-100
New York, NY 10278

Re: Request for Information Under 42 U.S.C. §9601 et seq.
Diamond Alkali Superfund Site, Operable Unit 2

Dear Mr. Richman:

Monsanto Company hereby timely responds to the United States Environmental Protection Agency's (EPA) Request for Information under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2, dated November 14, 1995. By agreement, Monsanto received until December 29, 1995 to tender this response. (See attached letter confirming the extension.)

In response to the EPA's Request for Information, Monsanto disagrees with the EPA's overly broad assumption of authority which it asserts is conferred by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. §9601, et seq. Monsanto also objects to the overly broad scope of the questions included within the EPA's Request for Information; to the unreasonable time period covered, going back more than 40 years into the past and to the lack of definition of Operable Unit 2. Monsanto is not waiving any right by such action to the apparent lack of authority in issuing the November 4, 1995 letter. The signature by John S. Fusio for Kathleen C. Callahan does not relate delegation of authority to issue such a government request and, therefore, this reply is filed under protest without any waiver of any right or objection relative to Monsanto Company's cooperation. Other and further objections, both general and specific, are noted in Monsanto's responses to the specific requests. Furthermore,

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DIRECTOR'S OFFICE
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U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Mr. Lance R. Richman
December 29, 1995
Page 2

Monsanto continues all objections and defenses stated in its earlier correspondence without waiver.

Be assured that Monsanto supports the prompt and efficient cleanup of sites which present an imminent and substantial danger to human health or the environment. Accordingly, please keep us apprised of any new developments regarding the site conditions, additional studies and cleanup plans. In the event that EPA produces substantial evidence that Monsanto-generated hazardous materials are present at the site, Monsanto is prepared to participate with other parties and in appropriate remedial activities based upon an appropriate apportionment of responsibility. At the present time, however, the only information available to Monsanto indicates that it is not responsible for hazardous substances located at the site.

Given the extensive scope of information as requested, and given the effort required to review and make diligent search for responsive information, Monsanto reserves the right to amend and/or to supplement this response as appropriate in the future upon the discovery of further documents and information. Specifically, it must be noted that Monsanto's responses herein may encompass information supplied in the documentation which has been previously provided by Monsanto in response to EPA's Request for Information dated January 3, 1995.

Monsanto is in the process of reviewing certain information obtained from EPA files which was prepared on behalf of Maxus Energy Corporation, and intends to provide EPA with comments on this information within the next month.

Please direct all further inquiries, or questions concerning Monsanto's position in this matter or any information submitted herewith to the undersigned counsel at (314)694-8506.

Very truly yours,



Peter H. Smith

Assistant Environmental Counsel

PHS/jms

Attachments

cc: Amelia Wagner, Esq.

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Monsanto

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November 30, 1995

Amelia Wagner
U.S. Environmental Protection Agency
Region I
Office of the Regional Counsel
290 Broadway, 17th Floor
New York, NY 10007-1866

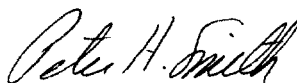
Re: Diamond Alkali Superfund Site, Operable Unit 2
Monsanto Company Information Request Extension

Dear Ms. Wagner:

This confirms our conversation of November 30, 1995, wherein we agreed that Monsanto Company would have an extension of time, by and through Friday, December 29, 1995, within which to respond to the Environmental Protection Agency's information request concerning the Diamond Alkali Superfund Site, Operable Unit 2.

Thank you for your courtesy concerning this extension. Should you have any questions or comments between now and the response date, please do not hesitate to me.

Very truly yours,


Peter H. Smith

DEC 04 1995

PHS/jms

cc: K. D. Moldthan (w/enc.)

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**Monsanto's Response to Request for Information
Concerning the Diamond Alkali Superfund Site,
Operable Unit 2**

GENERAL OBJECTIONS

Monsanto generally objects to the overly broad, unauthorized and unduly burdensome nature of the questions included in the November 14, 1995 Request for Information on the site referenced above, as propounded by the United States Environmental Protection Agency (EPA). Monsanto objects to the extreme breadth of information sought insofar as the questions fail to limit the scope of inquiry to the discharge of hazardous substances, as defined in 42 U.S. Code section 9601(14) (hazardous substance), into the Passaic River. The questions as propounded are in excess of EPA's authority for purposes of information requests under CERCLA Section 104(e) concerning a hazardous waste site. Furthermore, there is no showing that the individual propounding these requests on behalf of EPA possesses the requisite authority to make such requests pursuant to CERCLA. The signature does not relate any delegation of authority to issue such a Government Request. Monsanto also objects to the definitions and instructions included in the Request for Information on the grounds that they exceed the scope of EPA's authority for purposes of such an Information Request. Monsanto also objects that the Information Request contains undefined or improperly-defined terms, rendering the questions vague and ambiguous, overly-broad and unduly burdensome.

Given the undefined nature of the questions and the existence of multiple lawsuits which may pertain to some aspects of the questions propounded, various communications and documents are not subject to disclosure on the basis of irrelevance, over breadth, lack of competent authority, attorney-client communications, attorney work product, self-critical analysis and/or settlement negotiations privileges.

Monsanto states that the objections set forth above are continuing in nature, and to the extent applicable, shall be deemed included in each and every answer given below, whether or not specifically set forth therein. Monsanto specifically reserves to itself and does not waive the right to raise additional objections as appropriate at any later time.

RESPONSES

1. With reference to Exhibit B of your previous submittal dated February 3, 1995, what industrial waste waters were discharged into the sanitary sewer from 1954 to the present? Please provide information relating to the components of each wastewater stream.

Response Number 1:

In addition to the previously stated general objections, Monsanto objects to Request Number 1 on the grounds that information available to Monsanto indicates it is not responsible for hazardous substances at the site and as exceeding EPA's authority under Section 104(e) of CERCLA for purposes of a site Information Request, insofar as it seeks information concerning Monsanto's waste streams, without limiting the scope of inquiry to the transportation, treatment, storage or

disposal of CERCLA-hazardous substances and to possible discharges to the Passaic River. Request Number 1 is further rendered ambiguous because the term "sanitary sewer" is not defined.

Without waiver of the above objections, Monsanto states that the Kearny Plant was from 1954 to 1991 an indirect discharger to a POTW of waste water from washdowns, rain and jets condensate (1978-1981) from the alkylphenol manufacturing process; waste waters from washdowns and rain from the sterox manufacturing processes, and waste water from the quality control lab and the boiler room.

Potential and small concentration components of the alkylphenol production waste water from 1978-1991 include nonyl and di-nonylphenol, dodecylphenol, di-dodecylphenol, phenol, nonene, propylene tetramer; and from the 1970's-1985 for ten to twenty days a year cumylphenol and methyl styrene. Toluene was a small and infrequent component from 1978-1991. See attached letter of January 8, 1991 from Monsanto to the Passaic Valley Sewerage Commissioners for further details about toluene. Potential and small concentration components of the sterox production waste waters from 1978-1990 were ethoxylated nonylphenol, ethoxylated dodecylphenol, potassium carbonate, and cellulose fiber (filter aid). Waste water from the laboratory from 1955 to 1991 may have contained a small amount of washdown of laboratory glassware. Waste waters from boiler blowdown and water softener washdowns from 1954-1991 may have contained as components sodium, calcium and magnesium salts.

2. a. To the extent not discussed in the response to Question 1, above, please detail the byproducts and/or waste waters of phosphoric acid and sodium tripolyphosphate production, including the hazardous components of these byproducts and/or waste waters.

b. Please identify whether this was a closed system or whether the byproducts/waste waters were discharged into the sanitary sewer or, if not, where they were discharged.

Response Number 2:

Response a. and b.

Monsanto objects to Request Number 2 on the general and specific grounds stated above. Request Number 2 is further rendered ambiguous because the term "byproducts" is not defined. Subject to the foregoing objections, there were no byproducts generated and waste waters were collected in a closed system.

3. a. To the extent not discussed in the response to Question 1, above, please detail the byproducts and/or waste waters of Sterox production, including the hazardous components of these byproducts and/or waste waters.

b. Please identify whether this was a closed system or whether the byproducts/waste waters were discharged into the sanitary sewer or, if not, where they were discharged.

Response Number 3:

Response a. and b.

Monsanto objects to Request Number 3 on the general and specific grounds stated above. Subject to the foregoing objections, there were no byproducts generated from the sterox production. See Response Number 1 above.

4. a. To the extent not discussed in the response to Question 1, above, please detail the byproducts and/or waste waters of Alkyl Phenol production, including the hazardous components of these byproducts and/or waste waters.

b. Please identify whether this was a closed system or whether the byproducts/waste waters were discharged into the sanitary sewer or, if not, where they were discharged.

c. If this was a closed system, please explain the toluene violation in November 1990 related to this problem.

Response Number 4:

Response a. through c.

Monsanto objects to Request Number 4 on the general and specific grounds stated above. Subject to the foregoing objections, di-nonylphenol and di-dodecylphenol were generated in alkylphenol production and burned on-site as a fuel blend from 1960-1987 and off-site for fuel blending from 1988-1991. Waste waters from alkylphenol production were discharged to the POTW from 1978-1990. See attached letter dated January 8, 1991 from Monsanto to the Passaic Valley Sewerage Commissioners regarding the toluene matter.

5. a. To the extent not discussed in the response to Question 1, above, please detail the byproducts and/or waste waters of vinyl side extrusion, including the hazardous components of these byproducts and/or waste waters.

b. Please identify whether this was a closed system or whether the byproducts/waste waters were discharged into the sanitary sewer or, if not, where they were discharged.

Response Number 5:

Response a. and b.

Monsanto objects to Request Number 5 on the general and specific grounds stated above. Subject to the foregoing objections, no byproducts or waste waters were generated from the vinyl siding extrusion process.

6. The following questions relate to the PCB Disposal Area discussed in your letter of February 3, 1995.

- a. Was the trench into which the PCBs were discharged lined or unlined?
- b. Was the disposal area lined or unlined?
- c. How was this disposal area addressed in subsequent clean-up done at the Site?

Response Number 6:

Response a. through c.

Monsanto objects to Request Number 6 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, Monsanto states that the trench and disposal area were unlined, and submits that Exhibits C and E to Monsanto's February 3, 1995 Response and the attached documents captioned "Remedial Action Report" Volumes I and II (November 11, 1994) and letter dated December 13, 1995 from the State of New Jersey Department of Environmental Protection to Kathleen Duckett Moldthan of Monsanto Chemical Company, may contain information in response to this Request Number 6.

7. In your previous response you indicated that process waste waters were discharged to an "acid" sump. The following questions relate to this sump.

- a. Was waste water from the sump ultimately disposed of into the sanitary sewer?
- b. Was any sampling ever done in the vicinity of the sump to determine whether any of the waste water migrated outside of the sump? If so, please provide the sampling and analysis information.

Response Number 7:

Response a. and b.

Monsanto objects to Request Number 7 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, Monsanto states that waste waters from the acid sump were recycled in a closed system, and that previously provided sampling results in Exhibit B to Monsanto's February 3, 1995 Response contains information in response to Request Number 7 as follows:

<u>Attachment</u>	<u>Table</u>	<u>Sample Identification</u>
13-B	M-2.8, ground water	15s and 15d
13-C	M-3.14, soil	AS 1, AS 2 and AS 3
13-D	M-4.3, soil	ACD-SS-01 and ACD-SS-02

8. In your previous response you indicated that process waste waters were discharged to the "Alkyl Phenol/Sterox" sump. The following questions relate to this sump.

a. Was waste water from the sump ultimately disposed of into the sanitary sewer.

b. Was any sampling ever done in the vicinity of the sump to determine whether any of the waste water migrated outside of the sump? If so, please provide the sampling and analysis information.

Response Number 8:

Response a. and b.

Monsanto objects to Request Number 8 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, Monsanto states that there was no discharge of waste waters from the Alkylphenol/Sterox sump to the sanitary sewer, and that

previously provided sampling results in Exhibit B to Monsanto's February 3, 1995

Response contain information in response to Request Number 8 as follows:

<u>Attachment</u>	<u>Table</u>	<u>Sample Identification</u>
13-B	M-2.1 to 2.6, ground water and 2.9 to 2.12, ground water	11s and 11d
13-C	M-3.9, 3.10, 3.11, soil	APS 1, 2, 3, 4, 5, 6
13-D	M-4.1, 4.2, 4.4, and 4.5, soil	APSS-SS-01 and APSS-SS-02

9. During the manufacture of the sodium tripolyphosphate powder, was any of the sodium tripolyphosphate powder or dust that fell on the floor, washed into any drains on the facility?

- a. If the dust or powder was washed down the drains, how often was this done (i.e., at the end of the shift or after every batch was made)?
- b. Was there any analysis done on the wash that went down the drains?
- c. Where did these drains lead?

Response Number 9:

Response a. through c.

Monsanto objects to Request Number 9 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, Monsanto states any sodium tripolyphosphate powder or dust on the floors inside the buildings was washed into stainless steel drains, collected and recycled back to the process as part of a closed system.

10. EPA has information that your facility in Kearny had at least two out falls that directly discharged waste waters to the Passaic River until at least 1973.

- a. Please provide any and all information about the waste waters that were discharged through these out falls into the Passaic River.

b. Please provide any and all information about any additional out falls through which waste waters were discharged to the Passaic River.

Response to Request Number 10:

Response a. and b.

Monsanto objects to Request Number 10 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, there were two discharge outfalls that discharged stormwater from the Kearny plant to the Passaic River, both of which were sealed in 1973.

11. Please provide any and all information about the notification from the Passaic Valley Sewerage Commissioners of a discharge violation by the Kearny facility in 1961. The violation related to the release of a turbid waste water, with a pH of 2-3, from a 20" concrete pipe into the Passaic River.

Monsanto objects to Request Number 11 and restates and incorporates by reference its general and specific objections set forth above. Subject to the foregoing objections, Monsanto states it has no responsive information.

12. Provide the name, address, telephone number, title and occupation of the person(s) answering this second "Request for Information" and state whether such person(s) has personal knowledge of the responses. In addition, identify each person who assisted in any way in responding to this "Request for Information" and specify the question to which each person assisted in responding.

Monsanto objects to Request Number 12 and restates and incorporates herein by reference its general objections as stated herein above. Subject to the foregoing objections, Monsanto answers as follows: These responses and objections were prepared under the direction of P. H. Smith, Assistant Environmental Counsel, Monsanto Company, 800 N. Lindbergh Boulevard, St.

Louis, Missouri. The following individuals participated in various degrees in the preparation of these responses, under the direction of Mr. Smith:

J. D. Felder; N. N. Rozell; K. D. Moldthan; 800 N. Lindbergh Boulevard, St. Louis, Missouri, 63167; telephone number (314)694-8506; C. A. Balan, North Bergen, New Jersey, 07047; telephone number (via Mr. Smith) (314)694-8506.

VERIFICATION

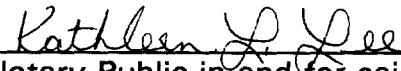
STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

Peter H. Smith, being duly sworn, deposes and says that he has read the foregoing "Monsanto's Response to Request for Information Under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2," and is familiar with the contents thereof; that the deponent is without personal knowledge of the matters stated in the foregoing "Monsanto's Response to Request for Information Under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2"; that the foregoing "Monsanto's Response to Request for Information Under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2" has been assembled by authorized employees and representatives of Monsanto Company who have informed deponent that the foregoing "Monsanto's Response to Request for Information Under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2" is true; and that to the best of deponent's knowledge, this "Monsanto's Response to Request for Information Under 42 U.S.C. §9601 et seq. Diamond Alkali Superfund Site, Operable Unit 2" is true.



Peter H. Smith

Subscribed and sworn to before me
this 29th day of December 1995.



Notary Public in and for said State
and County

